

TENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:
DONALD R. FRASER
MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA, FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1853

Date of mailing
(day/month/year) **10 FEB 2005**

Applicant's or agent's file reference

FOR FURTHER ACTION

See paragraph 2 below

5336819

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US04/08052

17 March 2004 (17.03.2004)

01 April 2003 (01.04.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): B65H 75/48; G01B 3/10 and US Cl.: 242/375.3; 33/761, 767

Applicant

THE PERFECT MEASURING TAPE CO.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703)305-3230

Authorized officer

Kathy Matecki

Telephone No. 703-308-1113

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US04/08052

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US04/08052

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|----------------------------|-----|
| Novelty (N) | Claims <u>5 and 7</u> | YES |
| | Claims <u>1-4, 6 and 8</u> | NO |
| Inventive step (IS) | Claims <u>NONE</u> | YES |
| | Claims <u>1-8</u> | NO |
| Industrial applicability (IA) | Claims <u>1-8</u> | YES |
| | Claims <u>NONE</u> | NO |

2. Citations and explanations:

Claims 1-4, 6 and 8 lack novelty under PCT Article 33(2) as being anticipated by Decarolis '057. Decarolis '057 shows a housing (10) having exterior an exterior surface with a hollow interior defined by two spaced apart housing; an elongate flexible blade (52) with a free end (54) and a terminal end; a spool (50) mounted for rotation about a first axis within the hollow interior of said housing; a first sheave (66) mounted coaxially of the first axis; a spiral spring assembly (80) mounted about a second axis within the hollow interior of said housing and generally parallel with the first axis of said spool; a second sheave (86) mounted coaxially of the second axis; and means for transmitting rotational movement of said first sheave to said second sheave, see figures 1-4.

Claim 5 lacks an inventive step under PCT Article 33(3) as being obvious over Decarolis '057 in view of Caldwell '847. Decarolis '057 does not teach a flexible belt to drive the spool and the spring assembly but otherwise teaches all of the claimed elements. Caldwell '847 teaches the use of a flexible belt (38) to drive the spool and the spring assembly, see figure 1. It would have been obvious to one having ordinary skill the art at the time the invention was made to modify the apparatus of Decarolis '057 by providing a belt drive as taught by Caldwell '847, to drive the spool and the spring assembly.

Claim 7 lacks an inventive step under PCT Article 33(3) as being obvious over Decarolis '057 in view of Lin '916. Decarolis '057 does teach hand and finger contoured surface but does not teach pads. Lin '916 teaches an elastic material (20) to prevent the measuring tape dispenser from slipping off when using it, see figure 2. It would have been obvious to one having ordinary skill the art at the time the invention was made to modify the apparatus of Decarolis '057 by providing an elastic material (i.e. pads) as taught by Lin '916, to prevent the measuring tape dispenser from slipping off when using it.

Claims 1-8 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.